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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,353	11/24/2003	Brian D. Smith	2003-0604.02	4714
21972	7590	02/13/2006	EXAMINER	
LEXMARK INTERNATIONAL, INC. INTELLECTUAL PROPERTY LAW DEPARTMENT 740 WEST NEW CIRCLE ROAD BLDG. 082-1 LEXINGTON, KY 40550-0999			GARCIA JR, RENE	
			ART UNIT	PAPER NUMBER
			2853	

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/720,353		SMITH ET AL.	
	Examiner		Art Unit	
	Rene Garcia, Jr.		2853	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 12-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/24/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. Claims 12-25 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 17 January 2006.

Information Disclosure Statement

2. The information disclosure statement filed 22 January 2004 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

3. Information Disclosure Statement needs to be on separate sheet. See item 1 and 4 in above paragraph.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Kobayashi et al..

Kobayashi et al. disclose the following claimed limitations:

***regarding claim 1, inkjet printhead, comprising:**

***plurality of air diffusion vents/vent holes, 115A/**

***label/re-releasable film, 150A/ positioned over an entirety of at least one of said air diffusion vents (fig. 11; paragraph 0103 & 0110)**

***regarding claim 2, plurality of air diffusion vents/115A/ reside in a top surface of an inkjet printhead lid (paragraph 0103 – formed in upper cover/11/)**

***regarding claim 4, inkjet printhead, comprising:**

***interior/foam chambers, 14A/**

***at least two air diffusion vents/vent holes, 115A/ in fluid communication with said interior/14A/ (paragraph 0018)**

***label/re-releasable film, 150A/ positioned over an entirety of at least one of said at least two air diffusion vents/115A/ to substantially prevent said at least one air diffusion vent/115A/ from being in fluid communication with atmosphere (paragraph 0018)**

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Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al. (US 2002/0044184) in view of Matsuzaki et al. (US 6,416,152).

Kobayashi et al. disclose the following claimed limitations:

***regarding claim 5, surface with a plurality of air diffusion vents/vent holes, 115A/ (fig. 11)**

***regarding claim 6, surface is a top surface of an inkjet printhead lid (paragraph 0103 – formed in upper cover/11/)**

***regarding claim 7, inkjet printhead, comprising:**

***body defining an interior/foam chambers, 14A/**

***lid (paragraph 0103 – formed in upper cover/11/) having a top and bottom surface, said bottom surface connected to said body, said top surface having more than one air diffusion vent/vent holes, 115A) (fig. 11)**

***regarding claim 8, each said air diffusion vent/vent holes, 115A/ has a serpentine channel/air-releasing channels, 116A/ terminating in a hole extending**

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through a thickness of said lid from said top surface to said bottom surface (fig. 11; paragraph 0103)

Kobayashi et al. does not disclose the following claimed limitations:

*regarding claim 3, label is not positioned over an entirety of another of said air diffusion vent

*regarding claim 5, surface having at least two predetermined label placement positions

*label on said surface positioned in one of said at least two predetermined label placement positions wherein all or less than all of said plurality of air diffusion vents are in fluid communication with atmosphere

*regarding claim 7, two predetermined label placement positions, each said air diffusion vent being in fluid communication with said interior

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*label adhered to said top surface of said lid and positioned in one of said two predetermined label placement positions such that none or some of said air diffusion vents are substantially prevented from being in fluid communication with atmosphere

Matsuzaki et al. disclose the following:

*regarding claim 3, label is not positioned over an entirety of another of said air diffusion vent/**air communicating port/26/** (fig. 9c; air communicating port/26/ in direct contact with groove/28/ and air communication hole/28a/) for the purpose of having air communication hole open to atmosphere when in use

*regarding claim 5, surface having at least two predetermined label placement positions (fig. 9a-9c; locations corresponding to first sealing part/52a/ and second sealing part/52c/) for the purpose of not having air communication hole open to atmosphere when not in use

*label on said surface positioned in one of said at least two predetermined label placement positions wherein all or less than all of said plurality of air diffusion vents/**air communicating port/26/** are in fluid communication with atmosphere (fig. 9a-9c; and 3a-3c, 7a-7c, 10a-10c) for the purpose of having air communication hole open to atmosphere when in use

*regarding claim 7, two predetermined label placement positions (fig. 9a-9c; locations corresponding to first sealing part/52a/ and second sealing part/52c/), each said air diffusion vent/**air communicating port/26/** being in fluid communication with said

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interior for the purpose of not having air communication hole open to atmosphere when not in use

*label adhered to said top surface of said lid and positioned in one of said two predetermined label placement positions such that none or some of said air diffusion vents/air communicating port/26/ are substantially prevented from being in fluid communication with atmosphere (fig. 9a-9c; and 3a-3c, 7a-7c, 10a-10c) for the purpose of having air communication hole open to atmosphere when in use

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to utilize a label is not positioned over an entirety of another of said air diffusion vent; surface having at least two predetermined label placement positions, label on said surface positioned in one of said at least two predetermined label placement positions wherein all or less than all of said plurality of air diffusion vents are in fluid communication with atmosphere; and two predetermined label placement positions, each said air diffusion vent being in fluid communication with said interior, label adhered to said top surface of said lid and positioned in one of said two predetermined label placement positions such that none or some of said air diffusion vents are substantially prevented from being in fluid communication with atmosphere as taught by Matsuzaki et al. into Kobayashi et al. for the purposes of having air communication hole open to atmosphere when in use; and not having air communication hole open to atmosphere when not in use.

8. Claim 9 is rejected under 103(a) as being unpatentable over Kobayashi et al. (US 2002/0044184) as modified by Matsuzaki et al. (US 6,416,152) as applied to claim 7 above.

Kobayashi et al. as modified by Matsuzaki et al. discloses all the claimed limitations except for the following:

*regarding claim 9, length of said serpentine channel divided by a width multiplied a depth of a terminal end of said serpentine channel is numerically about 210

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a serpentine channel divided by a width multiplied a depth of a terminal end of said serpentine channel that is numerically about 210, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. For the purpose providing an air channel in fluid communication with interior and atmosphere. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980)

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to utilize serpentine channel divided by a width multiplied a depth of a terminal end of said serpentine channel that is numerically about 210 for the purpose of providing fluid communication of interior with the atmosphere.

9. Claims 10 and 11 are rejected under 103(a) as being unpatentable over Kobayashi et al. (US 2002/0044184) as modified by Matsuzaki et al. (US 6,416,152) as applied to claim 7 above, and further view of Ujita et al. (US 2002/0158949).

Kobayashi et al. as modified by Matsuzaki et al. discloses all the claimed limitations except for the following:

*regarding claim 10, label is a two layer laminate

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*regarding claim 11, label is a layer of polyester over a layer of polypropylene

Ujita et al. disclose the following:

*regarding claim 10, label is a two layer laminate (paragraphs 0261-0264) for the purpose of obtaining a good contact at the fused point between the seal tape and ink cartridge

*regarding claim 11, label is a layer of polyester over a layer of polypropylene (paragraphs 0261-0264) for the purpose of obtaining a good contact at the fused point between the seal tape and ink cartridge

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to utilize a label is a two layer laminate; and label is a layer of polyester over a layer of polypropylene as taught by Ujita et al. into Kobayashi et al. as modified by Matsuzaki et al. for the purpose of obtaining a good contact at the fused point between the seal tape and ink cartridge.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lee et al. (US 6,739,711) includes a plurality of air discharging holes that have a serpentine configuration and sealing member in form of a top. Eida et al. (US 6,276,786) includes a ink tank with sealing members to prevent atmosphere communication port from being in fluid contact with atmosphere.


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Communications with the USPTO

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rene Garcia, Jr. whose telephone number is (571) 272-5980. The examiner can normally be reached on M-F 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen D. Meier can be reached on (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Rene Garcia Jr
30 January 2006

 2/06
K. FIGGINS
PRIMARY EXAMINER